

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ROGER P. JACKSON, MD

Plaintiff,

vs.

**MIZUHO ORTHOPEDIC SYSTEMS,
INC.,**

**Serve: CSC-Lawyers Incorporating
Service Company
221 Bolivar Street
Jefferson City, MO 65101,**

Defendant.

Case No. 4:12-cv-01031-W-NKL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Roger P. Jackson, MD, for his Complaint against Mizuho Orthopedic Systems, Inc. alleges and states as follows:

PARTIES

1. This is a claim for patent infringement by Dr. Roger P. Jackson for Mizuho Orthopedic System, Inc.'s infringement of U.S. Patent Nos. 7,565,708 and 8,060,960 ("Patents-in-Suit"). These patents are attached as **Exhibit A**.

2. Dr. Jackson is an orthopedic surgeon who practices medicine in the State of Missouri with medical offices in North Kansas City, Missouri.

3. Dr. Jackson is the sole and exclusive owner of all rights to the Patents-in-Suit.

4. Defendant Mizuho Orthopedic Systems, Inc. ("Mizuho") is a Delaware corporation doing business in Missouri, registered to do business in Missouri, and maintains principal offices in California.

5. Mizuho engages in the sale of medical equipment and supplies, and markets and sells these products, including products which infringe on the Patents-in-Suit within the State of Missouri and elsewhere.

6. Mizuho has previously licensed and sold surgical tables developed by Dr. Roger P. Jackson and developed a knowledge as to the spinal surgical tables developed by Dr. Roger P. Jackson. Mizuho has used this knowledge to develop similar products which willfully infringe on the Patents-in-Suit.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a) because the claim arises under federal patent law.

8. The Court possesses personal jurisdiction over Mizuho based on Mizuho's extensive contacts with the State of Missouri, including doing business in Missouri, and its participation in other litigation matters within the State of Missouri.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Mizuho does business in this District and is currently litigating other matters within this District.

RELEVANT FACTUAL BACKGROUND

10. On July 28, 2009, the United States Patent and Trademark Office issued U.S. Patent No. 7,565,708 to Dr. Roger P. Jackson, entitled Patient Positioning Support Structure.

11. On November 22, 2011, the United States Patent and Trademark Office issued U.S. Patent No. 8,060,960 to Dr. Roger P. Jackson also entitled Patient Positioning Support Structure.

12. The Patents-in-Suit generally concern surgical tables, including tables for spinal surgeries.

13. Dr. Jackson remains the sole owner of the Patents-in-Suit and is the proper party to bring this action.

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 7,565,708

14. Dr. Roger P. Jackson incorporates by reference all previous allegations made herein.

15. Mizuho directly infringes, actively induces infringement and/or contributes to the infringement of U.S. Patent No. 7,565,708 within the meaning of 35 U.S.C. § 271 by making, using, selling, and/or offering to sell its infringing products and services within the United States, including but not limited to, the Axis & ProAxis table systems which are surgical tables. A copy of brochures describing the Axis & ProAxis table systems are attached as **Exhibit B**.

16. Upon information and belief, Mizuho, through its long-standing relationship with Dr. Roger P. Jackson, has actual or constructive knowledge of U.S. Patent No. 7,565,708 and knows that its Axis and ProAxis tables infringe upon U.S. Patent No. 7,565,708.

17. Mizuho threatens to continue to engage in the acts complained of herein and, unless restrained and enjoined, will continue to do so, causing irreparable injury to Dr. Roger P. Jackson. It would be difficult to ascertain the amount of compensation that would afford Dr. Roger P. Jackson adequate relief for Mizuho's continued infringement. Accordingly, Dr. Roger P. Jackson does not have an adequate remedy at law to compensate him for the injuries threatened.

18. Mizuho's conduct has damaged and will continue to damage Dr. Roger P. Jackson in an amount to be proven at trial. Upon information and belief, Mizuho's infringement of U.S. Patent No. 7,565,708 is, has been and will be willful, making the case exceptional under 35 U.S.C. § 285.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 8,060,960

19. Dr. Roger P. Jackson incorporates by reference all previous allegations made herein.

20. Mizuho directly infringes, actively induces infringement and/or contributes to the infringement of U.S. Patent No. 8,060,960 within the meaning of 35 U.S.C. § 271 by making, using, selling, and/or offering to sell its infringing products and services within the United States, including but not limited to, the Axis and ProAxis table systems which are surgical tables.

21. Upon information and belief, Mizuho, through its long-standing relationship with Dr. Roger P. Jackson, has actual or constructive knowledge of U.S. Patent No. 8,060,960 and knows that its Axis and ProAxis tables infringe upon U.S. Patent No. 8,060,960.

22. Mizuho threatens to continue to engage in the acts complained of herein and, unless restrained and enjoined, will continue to do so, causing irreparable injury to Dr. Roger P. Jackson. It would be difficult to ascertain the amount of compensation that would afford Dr. Roger P. Jackson adequate relief for Mizuho's continued infringement. Accordingly, Dr. Roger P. Jackson does not have an adequate remedy at law to compensate him for the injuries threatened.

23. Mizuho's conduct has damaged and will continue to damage Dr. Roger P. Jackson in an amount to be proven at trial. Upon information and belief, Mizuho's infringement of U.S. Patent No. 8,060,960 is, has been and will be willful, making the case exceptional under 35 U.S.C. § 285.

DEMAND FOR JURY TRIAL

24. Plaintiff, Dr. Roger P. Jackson, hereby requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Roger P. Jackson, MD respectfully prays for a judgment against Defendant Mizuho Orthopedic Systems, Inc. as follows:

1. A judgment that Defendant Mizuho has infringed the Patents-in-Suit;
2. An award equal to the damages suffered by Plaintiff, Dr. Roger P. Jackson resulting from Mizuho's infringement of the Patents-in-Suit, including interests and costs;
3. Enhanced damages in accordance with the provisions of 35 U.S.C. § 285 due to Defendant Mizuho's willful infringement;
4. A finding that this case is exceptional under the provisions of 35 U.S.C. § 285;
5. An award to Dr. Roger P. Jackson of his reasonable attorneys' fees incurred pursuant to 35 U.S.C. § 285;
6. That Mizuho be preliminarily and permanently enjoined from marketing, distributing, or selling the Axis and ProAxis table systems due to the irreparable harm caused by its infringing activities; and
7. All other relief to which Dr. Roger P. Jackson is justly entitled.

Respectfully Submitted by

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